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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91227660
Party	Defendant Lead Consortium Investments
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Submission	Answer
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Date	07/14/2016
Attachments	Answer to Notice of Opposition.pdf(99868 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GUESS, THOMAS E.,

Opposer,

v.

Opposition No. 91227660

LEAD CONSORTIUM INVESTMENTS LLC,

Applicant.

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition (hereafter “Notice”) filed by THOMAS E. GUESS (hereafter “Opposer”) on May 3, 2016, the Applicant, LEAD CONSORTIUM INVESTMENTS LLC (hereafter “Applicant”), answers the Notice identified above as follows:

1. In response to the allegations of paragraph 1 of the Notice, the Applicant is without knowledge.
2. In response to the allegations of paragraph 2 of the Notice, the Applicant is without knowledge.
3. In response to the allegations of paragraph 3 of the Notice, the Applicant is without knowledge.
4. In response to the allegations of paragraph 4 of the Notice, the Applicant is without knowledge.
5. In response to the allegations of paragraph 5 of the Notice, Applicant admits that it is the owner of Application No. 86/836,660 for HONOR&GREED, which was filed on December 2, 2015, for use with “clothing, namely, T-shirts, hats, pants, sweatpants,

sweatshirts, socks, sweaters, button-up shirts, leggings, long sleeved shirts, shorts, tank tops, belts, bikinis, and scarves” in International Class 025. Any and all other allegations contained within paragraph 5 of the Notice are denied.

6. In response to the allegations of paragraph 6 of the Notice, Applicant admits that Application No. 86/836,660 for HONOR&GREED was filed based on intent-to-use. Any and all other allegations contained within paragraph 6 of the Notice are denied.
7. In response to the allegations of paragraph 7 of the Notice, the Applicant is without knowledge.
8. Applicant denies the allegations of paragraph 8 of the Notice.
9. Applicant denies the allegations of paragraph 9 of the Notice.
10. In response to the allegations of paragraph 10 of the Notice, the Applicant is without knowledge.
11. Applicant denies the allegations of paragraph 11 of the Notice.
12. Applicant denies the allegations of paragraph 12 of the Notice.
13. Applicant denies the allegations of paragraph 13 of the Notice.

Affirmative Defenses

In further answer to the Notice, the Applicant asserts that:

First Affirmative Defense

14. Opposer’s Notice fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the opposition.

Second Affirmative Defense

15. Upon information and belief, Opposer has no priority of use to the HONOR&GREED mark.

Third Affirmative Defense

16. There is no similarity between Applicant's HONOR&GREED mark and Opposer's marks as to appearance. Specifically, the Applicant's mark contains the additional and different word HONOR. Likewise, one of the Opposer's marks contains the additional and different word GOLD.

Fourth Affirmative Defense

17. Purchasers of goods sold along with the relevant marks are careful and sophisticated, thus making any confusion or mistake amongst potential overlapping consumers highly unlikely.

Fifth Affirmative Defense

18. The respective trademarks, as appears on each party's respective goods and services, do not create the same or overall commercial impression when viewed separately by the ordinary consumer.

Sixth Affirmative Defense

19. The Opposer's marks do not sound like the Applicant's mark. Specifically, the Applicant's mark is pronounced "HONOR AND GREED" whereas the Opposer's marks are pronounced merely as "GREED" and "GREED IS GOLD" respectively. The Opposer's marks strongly emphasize the word GREED whereas the Applicant's mark emphasizes the word HONOR.

Seventh Affirmative Defense

20. The connotation of Opposer's marks is fundamentally different from Applicant's mark. Namely, the Applicant's mark is for the phrase "HONOR AND GOLD," which juxtaposes the dissimilar words "honor," meaning to "regard with great respect" and

“greed” meaning “excessive or rapacious desire, especially for wealth or possessions.” In Opposer’s marks, the word “greed,” is not juxtaposed by a different word, but rather is reinforced by the word “gold” meaning “money, wealth, and riches.” As such, the respective marks carry significant differences in commercial impression.

Eighth Affirmative Defense

21. Ordinary Consumers would not confuse or conclude that the parties’ products share a common source or affiliation or connection.

Ninth Affirmative Defense

22. On information and belief, Opposer’s goods are more expensive than that of the Applicant; thus, Consumers are unlikely to purchase Opposer’s goods supposing they derive from Applicant or vice versa.

Tenth Affirmative Defense

23. Opposer has no examples of any actual confusion amongst consumers with regards to Applicant’s mark and Opposer’s marks.

Applicant reserves the right to amend this Answer to assert any additional affirmative defenses arising from any applicable facts or law that may be revealed during discovery.

Relief Requested

WHEREFORE, the Applicant asks that this Opposition proceeding be dismissed forthwith.

By: Francis John Ciaramella
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and

By: Rick Ruz
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Dated: July 14, 2016

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on the following via first class mail:

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Dated: July 14, 2016